IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 22577 of 2004

Between:

Aditya Educational Society, A Society registered under the provisions of the Societies Registration Act, rep. by its Secretary and Correspondent, B. Sudhakar S/o. Sammaiah, Aged 45 Years, R/o. Hanamkonda, Warangal District.

..... PETITIONER

AND

1 Kakatiya University, rep. by its Vice Chancellore,Hanamkonda.
2 Kakatiya University, rep. by its Registrar, Hanamkonda.
3 Kakatiya University, rep. by its Dean, College Development Council, Hanamkonda.
4 Kakatiya University, rep. by its Dean, Academic Affairs, Hanamkonda.
5 A.P. State Council of Higher Education, rep. by its Secretary, Saifabd, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, order or direction preferably a writ in the nature of Certiorari, calling for the records relating to Order made by the second respondent herein vide proceedings No. 1135/CDC/KU/2004
Dt. 22.11.2004 and quash the same as being illegal, arbitrary and violative of Article 14 of the Constitution of India and consequently suspend the operation of the said order forthwith and to pass such other and further orders as the Hon'ble court may deem fit and proper.

Counsel for the Petitioner: MR.P.VENUGOPAL

Counsel for the Respondent Nos.1 to 4: MR.DEEPAK BHATTACHARJEE

Counsel for the Respondent No.5: Mr. C. Sudesh Anand

The Court made the following :

ORDER:

Proceedings dated 22.11.2004 issued by the Registrar of Kakatiya University disaffiliating the Aditya Degree College, being run by the petitioner, for the reasons mentioned therein is the subject matter of this writ petition.

2. The main contention of the learned counsel for the petitioner is that though the petitioner complied with all the requirements as directed by the respondents, since sanction for new courses was not being accorded, petitioner filed W.P.No.6309 of 2004 for a direction to the respondents to accord sanction for the new courses sought and since respondents through the letter dated 27.05.2004 made withdrawal of the said writ petition a condition precedent for considering its application for sanction of new courses, petitioner withdrew the said writ petition, and had shifted the college from the old premises to another place, within the same urban area, more with a view to comply with the conditions imposed in the letter dated 27.05.2004 of the University that the college being run by the petitioner should be run exclusively and so the order withdrawing affiliation is bad, because petitioner did not commit any irregularity by shifting the college from one premises to another premises in the same urban area, and since such shifting is not prohibited by the Rules in force. It is his contention that the students of the college would be put to any amount of hardship due to the impugned proceedings and so in the interest of the welfare of the students, at least, the impugned proceedings are liable to be quashed.

3. The contention of the learned standing counsel for respondents 1 to 4 is that petitioner which was granted permission in 2002 to establish a co-educational college in rural area, had sought permission of the university to shift the college from Diesel Colony, Kazipet to a premises Opp: University Arts and Science College, Subedari, Hanamkonda, and the university gave 'No Objection' for such shifting with a direction to the petitioner to approach the A.P. State Council for Higher Education (for short – APSCHE) for its approval of the proposal to shift the college as per the

Rules, and made it clear till then it (petitioner) should not shift the college, and when petitioner sought extension of affiliation for the year 2004-05, a Special Inspection Committee which inspected the college premises on 25.05.2004 wanted the petitioner to

(i) submit building plan approved by the Municipality/Gram Panchayat duly attested by a Principal of a Government Degree College (ii) withdraw the court case pending against the University/APSCHE and (iii) submit an authentic proof of shifting the school section completely and thereby using the building exclusively for the Degree College only, and the petitioner was specifically informed that unless the said details are furnished, its proposal for starting new courses cannot be forwarded to APSCHE and the college cannot be recommended for further affiliation. After receiving the reply from the petitioner on 23.06.2004, vide proceedings dated 08.07.2004 permission to open new courses was accorded to the petitioner with a specific condition that the college shall not be shifted to any other place without prior permission. Thereafter when the inspection committee sent by the University visited the school on 07.10.2004, it did not find any students or staff for degree courses. There were no attendance registers, no Principal, no time table and young students attending school only were found there and the said facts were informed to the Secretary/Correspondent of the college being run by the petitioner through the letter dated 09.10.2004 for which petitioner addressed a letter to the Vice-Chancellor alleging that inasmuch as the inspection was made after college hours, the inspection team might have found some deficiencies. Therefore, the inspection committee of the university visited the college at 2.30 p.m. on 30.10.2004 but did not find students or staff etc. and since the person present there could not produce evidence relating to functioning of the college, petitioner was served with the proceedings impugned in this petition. It is also his contention that the University released a press statement on 03.06.2004 cautioning the students seeking admission in Degree courses, to verify the approval of the courses from the respective colleges and that it will not be responsible for their joining the colleges in which courses are not sanctioned or approved by it and it was also specifically notified that Aditya Degree College, Kazipet, being run by the petitioner, has permission to run the college at Diesel Colony premises but not at Subedari and so the contention that students studying in the college being run by the petitioner, whose enrolment itself is not intimated to the University, would suffer a hardship if the affiliation is withdrawn cannot be a ground for granting the relief sought. He

placed strong reliance on **NAGARJUNA UNIVERSITY v. St. ANTHONY EDUCATIONAL SOCIETY & OTHERS, THE REGISTRAR, OSMANIA UNIVERSITY v. MADINA EDUCATIONAL SOCIETY**, **GURU NANAK DEV UNIVERSITY v. PARMINDER KR. BANSAL AND OTHERS**, **MALLIKARJUNA MUDHAGAL NAGAPPA AND OTHERS v. STATE OF KARNATAKA AND OTHERS**, **MEDICAL COUNCIL OF INDIA v. SARANG**, **COUNCIL FOR INDIAN SCHOOL CERTIFICATE EXAMINATION v. ISHA MITAL**, **CH. ANITHA AND 11 OTHERS v. STATE OF ANDHRA PRADESH**, **CHURCH EDUCATIONAL SOCIETY v. THE OSMANIA UNIVERSITY REP. BY ITS REGISTRAR AND OTHERS**, **C.B.S.E. AND ANOTHER v. P. SUNIL KUMAR AND OTHERS** in support of his contention that grant of affiliation to a college is the sole discretion of the concerned University and that the courts should be slow in interfering with such discretion that too when it is not vitiated by any motives or mala fides.

4. From the letter dated 07.06.2002 addressed by the APSCHE to the Secretary/Correspondent of the college being run by petitioner it is seen that permission to run the college at Diesel Colony, Kazipet, as a rural co-educational college only was given to the petitioner. Condition No.9 mentioned therein reads "The college should not be shifted to any other place without prior permission. Also management should not change the name and the management of the college without prior permission. Further, interconversions i.e. Women's college into co-educational college or vice versa is not permitted." By the communication dated 09.06.2003 the Secretary/Correspondent of the college being run by the petitioner was informed by the Dean of the College Development Council of Kakatiya University that the University has "No objection" for shifting of the college from Diesel Colony, Kazipet, to Opp:to Univ. Arts & Science College, Subedari, Hanamkonda, but till the final approval of the proposal is given by the Government as per the rules, the college should not be shifted. Here it should be stated that by the letter dated 18.11.2003, APSCHE informed the Secretary of college being run by the petitioner, that the request to shift the college from its premises to another premises cannot be entertained since shifting of college from rural area to urban area will not be entertained.

5. Even in the letter dated 16.10.2004 addressed by the petitioner to the Vice-

Chancellor of Kakatiya University, filed along with the petition, petitioners stated-

> "Hence, we humbly request you to permit us to shift the premises to Subedari and grant affiliation for the Academic Year 2004-05. This alone will absolve us from all the allegations made by the authorities." (underlining mine)

So, it can be inferred that even by 16.10.2004 the college was running only at Diesel Colony, Kazipet. In the 'No Objection Certificate' issued by the Dean, College Development Council of Kakatiya University dated 09.06.2003 it is clearly stated that the college should not be shifted without the final approval of the proposal by the Government as per rules. The report of the Inspection Committee of the University, which visited the college on 30.10.2004 shows that there was no evidence of running of a college at Diesel Colony. So, it is clear that even without awaiting the final permission from the Government, petitioner shifted college after 16.10.2004.

6. The contention that since the Diesel Colony, Kazipet and Subedari, Hanamkonda are within the same urban area, petitioner did not infringe the rules cannot be accepted because permission granted to the petitioner is to run the college in a 'rural area' i.e. Diesel Colony, Kazipet. So, it is clear that Diesel Colony, Kazipet, is a rural area, and the premises into which the college is now shifted, admittedly is in urban area. That apart when the petitioner was specifically directed not to shift the college till the final approval is granted by the Government, petitioner shifting the college to a new premises without approval from the government is a deliberate violation of the mandate given to it and so it has to suffer the consequences therefor.

7. Therefore, respondents issuing the proceedings, disaffiliating the college of the petitioner cannot be said to be vitiated by any mala fides and so the petitioner is not entitled to any relief.

8. Hence, the writ petition is dismissed. No costs.

(C.Y.Somayajulu, J.)

Date: 11.03.2005

Cvrk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) The Secretary, A.P. State Council of Higher Education,
Saifabad, Hyderabad.

2. The Vice-Chancellor, Kakaiya University, Hanamkonda.

3. The Registrar, Kakatiya University, Hanamkonda.

4. The Dean, College Development Council, Kakatiya University,
Hanamkonda.

5. The Dean, Academic Affairs, Kakatiya University, Hanamkonda.